

MASS.
DOC. COL.

MASS.
G1.2:G746/2

* UMASS/AMHERST *



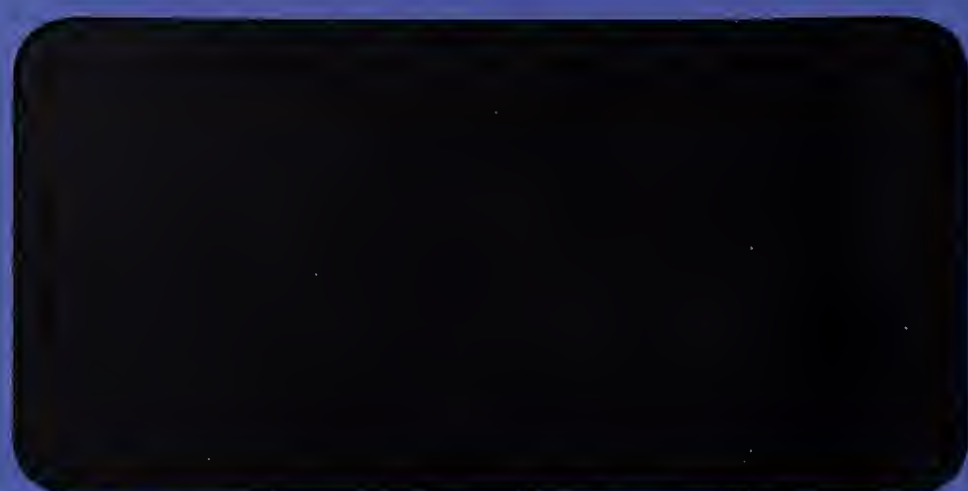
312066 0273 8236 9

GOVERNOR'S TASK FORCE
ON
JUVENILE CRIME: A REPORT

GOVERNMENT DOCUMENTS
COLLECTION

OCT 25 1982

University of Massachusetts
Depository Copy



GOVERNOR'S TASK FORCE
ON
JUVENILE CRIME: A REPORT

GOVERNMENT DOCUMENTS
COLLECTION

OCT 25 1982

University of Massachusetts
Depository Copy



The Commonwealth of Massachusetts
Governor's Task Force on Juvenile Crime

110 TREMONT STREET, 4TH FLOOR BOSTON 02102

(617) 727-7144

EDWARD J. KING
Governor

MAILED 100
CODED NAME

Mr. James J. Wilson
Chairman
William Hughes Jr. Esq.
Co-Chairman

April 27, 1981

Mr. W. Agnes Jr. Esq.
Mr. Thomas J. Carroll
Mr. John J. Conis
Mr. James W. Dolan
Mr. Peter Egan, Esq.
Mr. Mary Farnham
Mr. Paul Fenton
Mr. Kevin W. Fitzgerald
Mr. Norman A. Fungo
Mr. Joseph P. Foley
Mr. Ronald D. Harpe
Mr. Joseph J. McDevitt
Mr. Joseph J. Jordan
Mr. C. Ammonas, Esq.
Mr. John S. Leung
Mr. Arthur J. Lewis
Mr. George A. Luciani
Mr. William J. Luby
Mr. Edward Murphy
Mr. Panagopoulos Ph.D.
Mr. S. Pappas Ph.D.
Mr. Francis G. Petras
Mr. Prince, Esq.
Mr. Richard, Esq.
Mr. Mary Simard
Mr. Maribee Taylor
Mr. William Wether
Ms. Debra C. Wepman
Mr. James D. Wilson

Honorable Edward J. King
Governor of the Commonwealth
of Massachusetts
State House
Boston, Massachusetts 02108

Your Excellency:

I am pleased to submit for your consideration the Final Report of the Governor's Task Force on Juvenile Crime.

When you appointed me Chairman of the Task Force, I realized that the job the Task Force was to perform would not be an easy one. Thankfully, with the hard work of the membership and the excellent staff work provided to us, we were able to finish our work within the time-frame which was set forth in your Executive Order.

I know I speak for all of the Task Force members when I say that I am pleased to have been a part of this most important project. The Task Force represented a most distinguished panel of experts, in addition to which an Advisory Group was established to solicit the views of many diverse groups, agencies and individuals. Discussion was lively; opinions strongly held. But all shared an intense concern to strengthen the effectiveness of our juvenile justice system in Massachusetts.

I sincerely hope that this Report meets your expectations as it does mine. Although the Task Force officially ends its work with the submission of this Report, we must all realize that there is much to do to realize our goal of reducing the incidence of violent and serious juvenile crime in Massachusetts. The public demands no less.

Sincerely yours,

James O. Nixon
Chairman

JJN/mew

Enclosure

ACKNOWLEDGEMENTS

Although this Report is a product of the dedicated hard work of the Task Force members and the Sub-Committee Chairmen, the end product would not be possible without the assistance of the Massachusetts Committee on Criminal Justice (MCCJ). Staff members from the agency coordinated the Task Force activities, conducted research and analysis, and provided secretarial and clerical duties necessary to make this important endeavor a reality.

The Task Force would like to especially thank Mr. Walter F. Timilty of the Massachusetts Committee on Criminal Justice for his invaluable and outstanding contribution as Coordinator for the Task Force. Mr. Timilty's organizational skills allowed the Task Force to conduct its work free from the encumbrances of the details surrounding the operation of a temporary governmental commission.

Ms. Jennifer Panagopoulos, Ph.D., both a Task Force member and a staff member of the Massachusetts Committee on Criminal Justice authored, edited and compiled this Report under a difficult deadline in order to meet the time-frame outlined in the Executive Order. Throughout the deliberations, Ms. Panagopoulos' expertise and overall assistance proved invaluable to the Task Force.

Staff members of the Committee on Criminal Justice who deserve special recognition include: Louise LoPresti and Mary Artesani, whose attendance at every Task Force and regional committee meetings provided an



Digitized by the Internet Archive
in 2013

<http://archive.org/details/governorstackfor00mass>

accurate account of the Task Force's deliberations; and Sharon Felice and Mary Ann Souza, who spent evening and weekend hours producing this Report. George Berube of MCCJ contributed to the writing of this Report as well as acting as general problem solver.

Two members of the Advisory Group who contributed numerous ideas, comments, and suggestions were Mr. Charles Clark from Haverhill and Senator McLeish of the Silver- Haired Legislature.

The Task Force wishes to express their profound gratitude to all other persons who have made this Report possible.

COMMONWEALTH OF MASSACHUSETTS

By His Excellency

EDWARD J. KING
Governor

EXECUTIVE ORDER NO. 186

GOVERNOR'S TASK FORCE ON JUVENILE JUSTICE

WHEREAS, the rise of violent and serious juvenile crime endangers the peace and order of our citizens; and

WHEREAS, in particular, burglaries, robberies, rapes, attacks upon our elderly, and serious physical assaults all threaten traditional values of respect for human life and property, and human decency; and

WHEREAS, my overriding duty and responsibility as Governor is to protect our citizens, their homes and families, their persons and their lives; and

WHEREAS, the Commonwealth urgently needs an immediate and comprehensive response to juvenile crime to preserve domestic tranquility and protect the constitutional rights of our citizenry;

NOW THEREFORE, I, Edward J. King, Governor of the Commonwealth, by virtue of the authority vested in me as Supreme Executive Magistrate, do hereby order as follows:

1. There is hereby created a Committee, to be known as the Governor's Task Force on Juvenile Crime, to consist of at least 20 members who shall serve without compensation. The members of the Committee shall be appointed by the Governor and shall serve at his pleasure.

The Committee shall consist of five members of the judiciary, the Secretary of Public Safety or his designee, the President of the Massachusetts Juvenile Police Officers Association, the President of the Massachusetts Chiefs of Police Association, the President of the Massachusetts District Attorneys Association, and the Police Commissioner of the City of Boston, the Chiefs of Police of Springfield and Worcester, the Commissioner of Youth Services, the Commissioner of Probation, the President of the Massachusetts State Senate, the Speaker of the Massachusetts House of Representatives, or the respective designees of such offices, a member of the defense bar, a member of the academic community, and a victim of juvenile crime.

From the membership, the Governor shall designate a Chairman and Vice Chairman. Any vacancies which may occur shall be filled by the Governor in the same manner as a prior appointment.

2. The Committee is authorized and directed to advise the Governor on specific, concrete recommendations to dramatically decrease the incidence of violent and habitual juvenile crime in the Commonwealth. The

Committee shall have, at a minimum, the following functions and responsibilities:

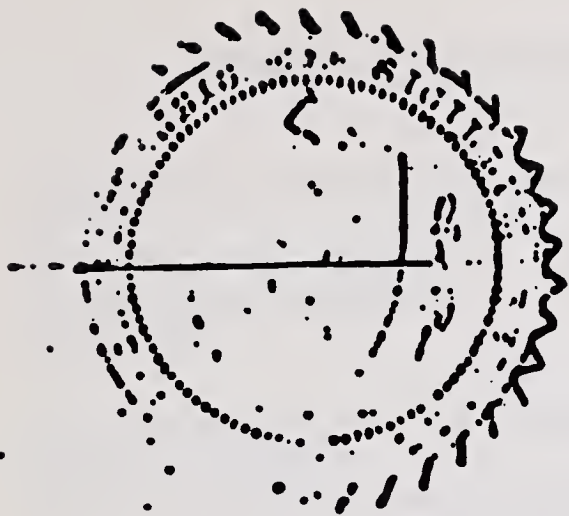
- A. To research and analyze the statutes of the Commonwealth relating to the juvenile/adult distinction in the criminal law with particular attention to the violent juvenile offender and repeat juvenile offender; and**
- B. To undertake an analysis of present resources and to develop a budgetary program to provide sufficient facilities for secure treatment of serious juvenile offenders; and**
- C. To undertake a coordinated executive, legislative and judicial response to the problem; and**
- D. To stimulate public interest in this problem and effectuate legislative and executive reform to diminish the juvenile crime rate.**

3. The Committee may form other subcommittees from its own membership and is authorized to call upon any secretariat, office, department, board, commission, council or other agency of the executive branch of state government under my jurisdiction and any officer, member or employee thereof, to supply such statistical data, program reports and other information and materials as the Committee deems necessary or appropriate to perform its work, and they are authorized and directed to cooperate with the Committee and to furnish it with such information or assistance in connection with such reviews and analysis and in connection with effecting such recommendations as may be developed for the implementation itself.

4. In view of the critical nature of the problem and the need for immediate action, it is requested that the Committee conduct its affairs as expeditiously as possible.

5. The Committee shall submit a written report to the Governor of its findings and recommendations together with drafts of legislation necessary to carry its recommendation into effect. Said report shall be filed with the Governor not later than April 30, 1981.

6. This order shall take effect immediately and shall continue in force through April 30, 1981 unless extended by the Governor for an additional period of time.



Given at the Executive Chamber in Boston
this 31st day of *October*
In the year of our Lord one thousand nine
hundred and eighty and of the Independence
of the United States of America two-
hundred and five. -----

Edward J. King
EDWARD J. KING
GOVERNOR
Commonwealth of Massachusetts

Michael Joseph Connelley
Secretary of the Commonwealth

GOD SAVE THE COMMONWEALTH OF MASSACHUSETTS

Members of the Governor's Task Force on Juvenile Crime

The Honorable James J. Nixon, Chairman
Justice
Third Middlesex Division
District Court Department
Cambridge

William Highgas, Jr., Vice Chairman
Executive Director
Massachusetts Committee on Criminal Justice

Peter W. Agnes, Jr., Esq.
Assistant District Attorney
Middlesex County
Cambridge

The Honorable Thomas J. Carroll
Presiding Justice
First Northern Worcester Division District Court
Gardner

The Honorable John J. Conte
District Attorney, Worcester County
President of the Massachusetts District Attorneys' Association
Worcester

The Honorable James W. Dolan
Justice
Dorchester Division
District Court Department
Dorchester

The Honorable Peter Eleey, Esq.
Member of the Executive Council
Boston

Ms. Mary Fantasia
Massachusetts Committee on Criminal Justice
Boston

Paul J. Fenton
Chief of the Springfield Police Department
Springfield

The Honorable Kevin Fitzgerald
Member of the House of Representatives
Boston

The Honorable Newman A. Flanagan
District Attorney
Suffolk County
Boston

Joseph P. Foley
Commissioner of Probation
Boston

The Honorable Ronald D. Harper
President Justice
Bristol Juvenile Court
New Bedford

Leo Iacopucci
Detective Sergeant
Reading Police Department
President, Massachusetts Juvenile Police Officers' Association
Reading

Joseph Jordan
Commissioner
Boston Police Department
Boston

Alan C. Kimenker, Esq.
Law Offices
60 State Street
Boston

Ms. Jane S. Leung
Executive Director
Chinese Youth Essential Services
Boston

The Honorable Arthur J. Lewis, Jr.
Member of the State Senate
Boston

The Honorable William Luby
Presiding Justice
Central Worcester Division
District Court Department
Worcester

The Honorable George A. Luciano
Secretary of the Executive Office of Public Safety
Boston

Edward Murphy
Commissioner
Department of Youth Services
Boston

Jennifer Panagopoulos, Ph.D.
Massachusetts Committee on Criminal Justice
Boston

Carmen S. Pizzuto, Ph.D.
Chief of Delinquency Prevention
Department of Youth Services
Boston

The Honorable Francis Poitras
Chief Administrative Justice of the Juvenile Court Department
Juvenile Court
Boston Division
Boston

Walter Prince, Esq.
Law Firm of Brown and Prince
Boston

James G. Reardon, Esq.
Law Firm of Reardon and Reardon
Worcester

Ms. Mary Simard
Victim of Juvenile Crime
Lynn

Halstead Taylor
Chief of the Worcester Police Department
Worcester

William Warner
Chief of the Middleboro Police Department
President, Massachusetts Chiefs of Police Association
Middleboro

James Q. Wilson, Ph. D.
Professor
Harvard University
Cambridge

Ms. Debra C. Wepman
Victim of Juvenile Crime
Wakefield

TABLE OF CONTENTS

Topic	Page
Executive Order No: 186	v
Members of the Governor's Task Force on Juvenile Crime	viii
List of Tables and Graphs	xii
I. Introduction	1
II. Transfer Proceedings	16
III. Judicial Sentencing	25
IV. Secure Treatment and Detention Placements	33
V. Care and Treatment Plans	38
VI. Department of Mental Health	42
VII. State-Wide Diversion Program	50
VIII. Department of Probation: Purchase of Service Funds	52
IX. State-Wide Juvenile Court System	54
X. Provisions for Juvenile Justice Education	57
XI. Improvements in Other Areas	62
XII. Scientific Study	64
XIII. Appendix	65
Bibliography	66
DYS Projection of Placement Needs	70
Norfolk Diversion Program	71
State-Wide Juvenile Court Statistics	74

LIST OF TABLES AND GRAPHS

Table	Page
A. Juvenile Arrests With Percent Change by Offense	2
B. Juvenile Arrest Rates with Percent Change by Offense	3

Graphs	Page
1. Number of New DYS Commitments by Year	34
2. Number and Percentage of Violent Offenders in New DYS Commitments	35

I. INTRODUCTION

Rise In Serious, Violent Juvenile Crime

The Commonwealth of Massachusetts has experienced a rise in the incidence of serious, violent and habitual crime. This increase is substantiated by a study conducted by the Statistical Analysis Center (SAC) of the Massachusetts Committee on Criminal Justice (MCCJ). Using figures provided by the F.B.I. Uniform Crime Reports, SAC analyzed juvenile arrest rates over a three year period, 1977, 1978, and 1979. This analysis focuses only on serious juvenile crime which the F.B.I. defines as Part I offenses. As such, all other minor or misdemeanor crimes are excluded from the analysis. To further refine the analysis, the data is classified into two major categories, i.e., violent and property crimes. Violent crimes include: murder, manslaughter, rape, robbery, aggravated (and simple) assault, and arson. Property crimes, on the other hand, are burglary, larceny, and auto-theft. The purpose of this classification is to assess the trend of the more serious, violent offenses as well as property offenses.

Table A shows the actual number and percentage increase/decrease of juvenile arrests for serious, violent and property crimes for 1977 through 1979 inclusive.

Table A: Juvenile Arrests with Percent Change by Offense

For 1977-1979

Offense	Year		
	1977	1978 (+%)	1979 (+%)
Violent Crimes	1,828	2,116 (+15.8)	2,320 (+9.6)
Property Crimes	10,027	9,679 (-3.5)	9,390 (-3.0)
Total Serious Crimes	11,855	11,795 (-.5)	11,710 (-.7)

The above Table reveals that from 1977 to 1979 total serious juvenile arrests have, decreased by 1.2 percent. This decrease has continued slightly from the base year of 1977. However, violent juvenile arrests have increased steadily since 1977. In fact, the number of violent juvenile arrests has risen by approximately 25 percent during the three years under study.

This dramatic rise in violent juvenile crime, i.e., twenty-five percent increase in three years, by itself requires that action be taken to deal with this problem. Moreover, the severity of this problem takes on greater significance when the juvenile population (age 17 and under) as a variable is controlled. The juvenile population has progressively declined for the years under study (1977-1979). Specifically, in 1977 there were 1,611,000 juveniles, while in 1978 the total was 1,565,000 and in 1979, this figure dropped to 1,516,000. Thus, the juvenile population has decreased by 95,000 over the three years.

When population figures are compared to the number of arrests for the corresponding years, they are in fact arrest rates, i.e., the actual number of juveniles arrested per 100,000 juveniles. Arrest rates are presented because they more accurately indicate whether the rise in the actual number of crimes is a real increase or one due to an increase in population.

Table B presents arrests rates per 100,000 juveniles and the percentage change for 1977 to 1979, inclusive.

Table B: Juvenile Arrest Rates With Percent Change by Offense
For 1977-1979

Offense	Year		
	1977	1978 (+%)	1979 (+%)
Violent Crime Arrests	113.5	135.2 (+19.1)	153.0 (+13.2)
Property Crime Arrests:	622.4	618.5 (-.6)	619.4 (-0.1)
Total Serious Crime Arrests	735.9	753.7 (+2.4)	772.3 (+2.5)

Table B shows that the arrest rate of violent juvenile offenders has increased even though the state's juvenile population has decreased. The arrest rates also indicate that violent juvenile arrest rates have increased 33 percent since 1977 and that total serious juvenile arrest rates have risen 5 percent over the same period. In addition arrest rates, reveal that the decrease in property crimes, as shown by total number of arrests, is not a real decrease. When population figures are taken into consideration the reverse is true, that is, property crimes in relation to juvenile population, have increased.

In summary, the actual number of violent juvenile arrests has risen since 1977, while property crime arrests have slightly decreased during the three years under study. A review of juvenile arrest rates show that more juveniles are being arrested each year. This is a particularly significant finding since the juvenile population in the state has been decreasing.

The Governor's Task Force on Juvenile Crime

In response to this rise of violent and serious juvenile crime and the public outcry for legislative action to curb this disturbing trend, Governor Edward J. King, on October 31, 1981, signed Executive Order No. 186 establishing the Governor's Task Force on Juvenile Crime.¹

The Governor's Task Force, hereinafter, to be referred to as the Committee, was to consist of at least 20 members to serve without compensation. All members were appointed by the Governor and included: five members of the judiciary, the Secretary of Public Safety, the President of the Massachusetts Chiefs of Police Association, the President of the Massachusetts Juvenile Police Officer's Association, the President of the Massachusetts District Attorneys' Association, the Police Commissioner of the City of Boston, the Chiefs of Police of Springfield and Worcester, the Commissioner of Youth Services, the Commissioner of Probation, the President of the Massachusetts State Senate, the Speaker of the Massachusetts House of Representatives, or their respective designees; a member of the defense bar, a member of the academic community, and a victim of juvenile crime.

¹ Executive Order No: 186: Commonwealth of Massachusetts, November 5, 1980.

Pursuant to that order the Governor appointed The Honorable James J. Nixon, Justice of the Cambridge District Court, as Chairman of the Committee. To assist Judge Nixon, thirty individuals were appointed to serve on the Committee, among whom was the Vice-Chairman, William Highgas, Jr., Executive Director, Massachusetts Committee on Criminal Justice. As a whole, Committee members had substantial as well as varied experience and expertise in the field of juvenile justice.

Thus, the Committee was created and authorized by the Governor to develop specific, concrete legislative and administrative recommendations to dramatically reduce the incidence of violent and habitual crime committed by juveniles in the Commonwealth. More specifically, the Committee was to carry out the following functions and responsibilities:

To research and analyze the statutes of the Commonwealth relating to the juvenile/adult distinction in the criminal law with particular attention to the violent juvenile offender and repeat juvenile offender;

To undertake an analysis of present resources and to develop a budgetary program to provide sufficient facilities for secure treatment of serious juvenile offenders;

To undertake a coordinated executive, legislative and judicial response to the problem; and

To stimulate public interest in this problem and effectuate legislative and executive reform to diminish the juvenile crime rate.²

² Executive Order No: 186: Commonwealth of Massachusetts, November 5, 1980.

In view of the critical nature of the problem, Governor King requested that the Committee conduct its task as expeditiously as possible and that its recommendations and proposed legislation be filed by April 30, 1981.

Methodology and Activities of the Committee

In pursuit of the objectives stated above, the Committee pursued a number of activities. First, pertinent materials were distributed and scrutinized by all Committee members. These materials covered a wide range of topics and issues relating to the whole juvenile justice system in Massachusetts as well as other states (A complete list is contained in the Appendix). Second, five regional hearings were scheduled to permit public testimony as well as that of practioners in the field throughout the Commonwealth. The following is the schedule of the public hearings:

Springfield, January 21, 1981

Worcester, January 27, 1981

Fall River, February 4, 1981

Lawrence, February 11, 1981

Boston, March 13 and 20, 1981

Except for the Boston hearings, which were conducted between the hours of 1:00 p.m. to 5:00 p.m., public testimony was accepted during the hours of 2:00 p.m. to 4:00 p.m. and 7:00 p.m. to 9:00 p.m. Note that two hearings were held in Boston which was a result of the great volume of public participation.

Committee members were unable to hear the testimonies of all the participants during the March 13th meeting, therefore, a second meeting had to be scheduled to accommodate all the requests. Apart from the oral presentations during these meetings, the Committee also accepted written statements. These written documents as well as the condensed versions of the minutes of all five regional hearings are contained in a separate Report. A content analysis of these documents revealed that the fifteen most salient issues are as follows:

1. Increase the number of secure facilities for violent offenders and repeat offenders (the opposite view was put forth by a number of individuals);
2. Increase the number of secure residential facilities and the length of stay ranging from 6 to 18 months;
3. Increase punishment in general: use laws to full extent;
4. Re-establish training schools without politics, i.e., hire personnel on the basis of ability;
5. Eliminate the training schools, i.e., do not re-institute them;
6. Implement programs which protect society and help juveniles;
7. Allow judges to sentence directly to a secure facility;
8. Provide more preventive services, e.g., early diagnostic and medical testing of children;
9. Increase the responsibility of the Department of Youth Services and Department of Social Services;
10. Create a partnership between schools and the courts;
11. Increase the number of restitution programs;
12. Retain the current transfer law: establish a youthful offender law;

13. Impose greater parental liability for juvenile crime, i.e., change maximum financial amounts parents may be held responsible for in damages from \$1,000 to \$5,000;
14. Establish a state-wide juvenile court: consistency in disposition of sentences among judges; and
15. Require the agency which has nominal custody of the child to provide services.

At this point, some mention should be made of the method used to inform all interested parties of these regional meetings. Walter Timilty from the Committee on Criminal Justice (MCCJ) mailed over 400 notices announcing the time, place, and purpose of these public hearings to various departments and agencies in each of the four regions - Springfield, Worcester, Lawrence, and Fall River. In the greater Boston area over 1,000 notices were distributed. These letters were targeted for the general public as well as to private and public agencies dealing directly with juveniles. Such agencies included: local youth departments, police departments, boards of selectmen, mayors, local representatives and state senators, school departments, juvenile agencies, elderly groups/councils on aging, church groups, League of Women Voters, Rotary Clubs, Boys' Clubs, courts, judges, probation officers, district attorneys, sheriffs, and local regional criminal justice agencies. While the notice was for their information, at the same time it was also publicly posted. Moreover, MCCJ diligently contacted the media in all of these regions. Newspapers, local radio and television stations were asked to make public announcements as to place, time and the purpose of the meetings. In turn, local colleges and university publications as well as other weekly news publications were asked to make this information known to their readership.

The third method was a combined method of conducting full Committee meetings as well as Sub-committee meetings. While the former was at the discretion of Judge Nixon, the latter was determined by the Chair of each of the Sub-committees. As Chairman, Judge Nixon initially divided the Committee into ten Sub-committees for concentrated discussion in the following areas: (1) Transfer Hearing, (2) Juvenile Treatment, (3) Adult Session Use of DYS Commitment, (4) Determinate Terms, (5) Juveniles Committing Certain Offenses, (6) State-wide Juvenile Court, (7) Educational Component, (8) Secure Facility, (9) Mental Health Involvement, and (10) Youthful Offender Status.

On February 13, 1981, following a full Committee meeting on February 10, 1981, Judge Nixon, with the consent of the other Committee members consolidated the ten original Sub-committees into three major Sub-committees entitled: (1) Juvenile Treatment - encompassing Secure Facilities, Mental Health and Determinate Terms Sub-committees; (2) Adjudication - encompassing Transfer, Adult Session Use of DYS Commitment, and Juveniles Committing Certain Offenses Sub-committees; and (3) Court Related Issues - encompassing Statewide Juvenile Court, Educational Component and Youthful Offender Sub-committees.

The major advantage of Sub-committee meetings was that it allowed members the opportunity to examine and research, on a more comprehensive level, the specific topics delineated above. After such research and deliberations, the Sub-committees filed their recommendations in draft form for the members of the full Committee. For the most part, the main purpose of the full Committee was to review, debate, and vote on the final recommendations. The full Committee meetings always complied with the Massachusetts Open Meeting Law.

Finally, Sub-committees received input from the Advisory Group, MCCJ staff and from interested persons. The Advisory Group furthered the objectives by providing invaluable knowledge, skills and expertise during Sub-committee meetings. Likewise, the views and experience of individuals, especially those who dealt on a daily basis with juveniles and their problems, was a definite asset to Sub-committee members. The staff at MCCJ was also of major importance. MCCJ staff, those with appropriate backgrounds, were assigned to each Sub-committee to assist in the actual research process. The combined efforts of these groups facilitated a comprehensive approach to assess the juvenile justice system from a holistic viewpoint. Note that although these individuals voiced their views; they were not, in the final analysis, allowed to vote.

Topics and Members of the Sub-Committees

Sub-Committee on Adjudication

The Sub-committee on Adjudication focused its efforts in three areas, Transfer Hearings, Adult Session Use of DYS Commitment, and Juveniles Committing Certain Offenses. More specifically, the topics addressed in regard to Transfer Hearings included, but were not limited to, crimes requiring transfer, crimes allowing transfer, the option of reverse transfer and the specific age categories for youthful offenders. The major considerations in the Adult Session Use of DYS Commitment category were the age categories for juveniles who would face transfer, the type of commitment and the limited applicability based on the criminal offense as charged. Under the category of Juveniles Committing Certain Offenses, the primary concern was preferential treatment for first-instance adult court offenses and options for treatment.

This Sub-committee comprised the following members:

1. The Honorable Francis G. Poitrast, Chairman
2. Peter Eleey, Esquire
3. The Honorable Kevin W. Fitzgerald, designee for the Honorable Thomas McGee, Speaker of the House of Representatives
4. The Honorable Newman Flanagan and his two, self-appointed representatives:
 - (a) Joseph McDonough, Esquire
 - (b) Sharon D. Meyers, Esquire
5. The Honorable William J. Luby
6. Jennifer A. Panagopoulos, Ph. D.
7. Walter Prince, Esquire
8. Chief Halstead Taylor and his self-appointed representative:
 - (a) Captain Joseph Trachimowica
9. Ms. Deborah Wepman, victim of a juvenile crime.

The following individuals, though not committee members, were allowed to participate on issues within the Sub-committee jurisdiction:

1. Deborah Greenberg Caplan, Esquire, Greater Boston Legal Services, Juvenile Law Reform Project.
2. James X. Kenneally, Esquire, Massachusetts Committee on Criminal Justice.
3. Carol Smith, Esquire, Massachusetts Defenders Committee.

Sub-Committee on Court- Related Issues

This Sub-committee concentrated on three major areas, i.e., the feasibility of a Statewide Juvenile Court, an educational courses for judges and the creation of a youthful offender category. In regard to implementing

a State-wide juvenile court system, the issues considered were: (a) the volume of juvenile offenses relative to geographical area, (b) the unique nature of juvenile justice and (c) the expediency and efficiency of said system. These issues were analyzed in direct relation to the cost of implementing such a system, e.g., exactly how many more judges, clerks, probation officers and the like, would be needed to realize this possibility.

Topics discussed under the category of Educational Component basically addressed the adequacy of the existing judiciary training and methods to improve such training. Finally, in its deliberations on creating a youthful offender category, the Sub-committee primarily focused on defining age categories and the crimes which would fall within such a classification system.

Members of the full Committee who participated in the Court- Related Issues Sub-committee were:

1. Alan C. Kimenker, Esquire - Chairman
2. The Honorable Kevin Fitzgerald, designee for the Honorable Thomas McGee, Speaker of the House of Representatives
3. The Honorable Joseph J. Conte, President of the Massachusetts District Attorneys' Association and his designee:
 - (a) Thomas Rosiello, Esquire
4. Commissioner Joseph Foley
5. Commissioner Joseph Jordan and his self-appointed representative:
 - (a) Superintendent John Doyle
6. Chief William Warner
7. James Reardon, Esquire

8. The Honorable George A. Luciano, Secretary of Public Safety and his designee:

- (a) Kimberly Fletcher, Esquire

9. Detective Sergeant Leo Iacopucci

Participants in this Sub-committee were:

1. George Berube, Director of Program Development, MCCJ
2. Jackie Blasi, Juvenile Justice Planning Specialist, MCCJ
3. Charles Clark, Member of the Advisory Group
4. Edward P. Dalton, Probation, Parole, and Correction Specialist, MCCJ
5. Joseph Kelly, Supervisor of Juvenile Justice Programs, MCCJ
6. Susan Leaver, Juvenile Justice Specialist, MCCJ
7. Gay Shanahan, Program Specialist - Intern, Juvenile Court Advocacy Program.

Sub-Committee on Juvenile Treatment

The focus of the Sub-committee on Juvenile Treatment was Secure Facilities, Mental Health and Determinate Terms. Under Secure Facilities, the subject matters considered were: (1) whether juveniles should be committed to said facilities by court order or by DYS; (2) whether the number of existing bed slots, both secure and non-secure are sufficient and (3) whether certain crimes should require secure detention/treatment.

Topics discussed within the category of Mental Health were the evaluation procedures after adjudication for disposition; the extent of

cooperation among the various agencies involved in the placement of juveniles, availability of beds for the seriously disturbed, and the feasibility of increasing outpatient/community- based placements.

The subject matter under Determinate Terms closely paralleled those discussed by the Sub-committee on Adjudication. In this way, specific topics under this category encompassed what offense, the type of term as well as placement, and previous criminal history which would warrant a determinate term.

Committee members assigned to serve on this Sub-committee were:

1. Peter W. Agnes, Jr., Esquire - Chairman
2. The Honorable James W. Dolan
3. James Sutton, Administrative Assistant, designee for the Honorable Arthur Lewis
4. Commissioner Edward Murphy
5. Professor James Q. Wilson
6. Chief Paul J. Fenton
7. Mary E. Fantasia
8. Carmen S. Pizzuto, Ph. D.

Before naming those individuals who attended or provided research data to this Sub-committee, it should be stated that Mr. Agnes held a public hearing, attended by approximately twenty-five interested individuals. Their views were accepted and considered in the Sub-committee's recommendations. The following individuals were more active participants:

1. Heitzi Epstein, Massachusetts Advocacy Center
2. Willlliam Greilich, Director, Statistical Analysis Center, MCCJ

3. JoAnne Quigley, Research Associate, Statistical Analysis Center, MCCJ
4. Elizabeth Vorenberg, Deputy Director, Massachusetts Advocacy Center

Having delineated the topics, the members of the Sub-committee and their respective designees and other interested individuals who participated in Sub-committee deliberations, this Report will now focus on the presentation of the final recommendations. The succeeding Report is divided into eleven major sections. Accompanying each recommendation is a historical perspective.

II. TRANSFER PROCEEDINGS

Introduction

Waiver of jurisdiction by a juvenile court is the process whereby the court relinquishes its authority over a child and transfers the case to a court of criminal jurisdiction for prosecution as an adult.³ Most states require that a juvenile be over a certain age and charged with a particularly serious offense before transfer to an adult court jurisdiction may occur.

Early juvenile court advocates held rehabilitation, not punishment, as the cornerstone of the juvenile justice system. Despite the emphasis on the rehabilitative model, most of the early juvenile court statutes included some reference to transfer of jurisdiction. State legislatures recognized that some children must be dealt with outside the rehabilitative confines of the juvenile justice system.

Recently, the trend among state legislatures has been the rejection of the rehabilitative model of the juvenile justice system in favor of a punitive model in enacting statutes. Protection of the public from serious juvenile crime is the predominant legislative motive for this trend.

For years, however, such statutes allowed juvenile court judges to make arbitrary waiver decisions with few, if any, legislative standards to guide their decision making process.⁵ In 1966, the United States Supreme Court

³ Davis, Samuel, Rights of Juveniles (N.Y. 1980), p. 4-1

⁴ Ibid.

⁵ Hendrickson, K., and Lavner, S., "Juvenile Justice: State Responses to Extreme Cases: Jurisdictional Statutes and Status Offenders." 1979 Annual Survey of American Law 95.

examined one such waiver statute, Kent v. U.S.⁶ The Court held that waiver of jurisdiction was a "critically important" stage in the juvenile process and must be attended by minimum requirements of due process and fair treatment required by the fourteenth amendment.⁷ The Court required that there be a hearing on waiver, that the juvenile have the right to counsel at the hearing, that the juvenile's counsel be allowed access to the juvenile's social records, and finally that the waiver decision be accompanied by a statement of reasons supporting that order. In total, eight factors were specified which a juvenile court judge could examine in making the decision to waive jurisdiction.

The desire to transfer juvenile cases into the adult court has resulted in re-writing state transfer statutes to make this a more probable alternative. In New York State, in July of 1978, public outrage and fear as a result of several horrifying incidents of violent juvenile crime, prompted swift legislation resulting in a tough New York juvenile crime law. This law is commonly referred to as the Juvenile Justice Reform Act of 1978. One of the most significant features of the 1978 Reform Act is that juveniles charged with particular felonies will be tried in an adult court rather than the juvenile oriented Family Court. If the crime charged is one over which an adult court jurisdiction under the law, then the trial originates in the adult court. Such a crime is one in which the youth is criminally responsible.

⁶ 383 U. S. 541 (1966).

⁷ Ibid at 560.

New York is not alone in its tough approach to juvenile crime. Under California Welfare and Institution Code Sec. 707 (a) and (b) a juvenile, sixteen years or older at the time of the alleged offense may be transferred to adult court and subjected to a criminal trial.⁸ This transfer is based upon an express finding that the juvenile is not "a fit and proper subject to be dealt with under the juvenile court law".⁹ In addition, under California law, the burden is on the juvenile to demonstrate his/her "fitness" to be retained within the jurisdiction of the juvenile system. Proponents of the "fitness hearing" claim that has deterred juvenile crime in California and promotes rehabilitation by allowing the juvenile court to evaluate each juvenile individually. Moreover, they maintain that it separates the incorrigible juvenile from those who are likely to benefit from the juvenile court's rehabilitation programs.¹⁰

⁸ Bay, Kathleen Ford. "Juvenile Justice in California: Changing Concepts?" 7 Am. J. Crim. Law 171 (1979).

⁹ California West 4 Inst. Code Sec.707 (a)

¹⁰ Kenneth Olmstead and Mark Perry, "The Sec. 707 Fitness Hearing: An Argument for Retention and Reform" 197 U. Cal. Davis Law Rev. 851 (1979).

Current Massachusetts Transfer Law

Currently G.L. c. 119, Sec. 61 provides the statutory mechanism for judicial transfer of a juvenile offender from juvenile to adult court jurisdiction. Pertinent parts read as follows:

"If alleged in a complaint . . . that a child:

a) who had previously been committed to the DYS as a delinquent child has committed an offense against a law of the Commonwealth, which if he were an adult, would be punishable by imprisonment in the state prison,

or,

b) has committed an offense involving the infliction or threat of serious bodily harm;

and in either case, if such alleged offense was committed while the child was between this 14th and 17th birthdays; and if the court enters a written finding upon clear and convincing evidence that:

the child presents a significant danger to the public as demonstrated by the nature of the offense charged, and the child's past record of delinquent behavior, if any, and is not amenable to rehabilitation as a juvenile, the Court may after a transfer hearing held in accordance with such rules of court as shall be adopted for such purpose dismiss the complaint." (emphasis added)

At the transfer hearing, the Court shall find whether probable cause exists to believe that the child has committed the offense or violation as

charged. If probable cause is found, the Court will then consider, but is not limited to, evidence of the following factors:

- a) seriousness of the alleged offense;
- b) child's family, school, and social history, including court and juvenile delinquent record, if any;
- c) adequate protection of the public;
- d) the nature of any past treatment efforts for the child; and
- e) the likelihood of rehabilitation of the child.

Based on a determination after consideration of the above factors, the juvenile may be treated either as a delinquent child or the delinquency complaint against the child may be dismissed and an adult criminal complaint issued.

Interpreting Current Massachusetts Transfer Statute

The Supreme Judicial Court in A Juvenile v. Commonwealth, 370 Mass. 272, 280-283, 347 N.E. 2d 677 (1976) outlined transfer hearing guidelines to be followed in conjunction with G.L. c. 119, Sec. 61. The Court held that "the statutory sections dealing with delinquent children, including G.L. c. 119 Sec. 61, should be construed liberally in order that children as far as practicable shall be treated "not as criminals, but as children in need of aid, encouragement and guidance." From that statutory interpretation, the Court inferred that "the Legislature intended that non-criminal treatment is to be favored and the transfer should be ordered only when warranted by exceptional circumstances."

The Court then addressed the decision to transfer by stating:

"We do not believe that a decision to transfer is proper when supported by findings which deal only with the seriousness of the charge and the inadequacy of existing juvenile facilities in terms of safeguarding the public. Despite the importance of these two factors and the weight that they may have in support of a conclusion that there should be a transfer to adult court, there must also be a finding that the juvenile cannot be rehabilitated within the present juvenile structure, or that, in the absence of long-term supervision and security, he poses a serious threat to the public, with subsidiary findings indicating the basis for this conclusion.* It cannot be assumed that the nature of the offense demonstrates the need for treatment beyond available juvenile facilities for this assumption would imply that juvenile facilities would be adequate only if a child is charged with a minor offense and that, by definition, serious offenders must be denied the statutory protections afforded juveniles. Such a conclusion ignores the rehabilitative purpose of our statutes relating to delinquent children, and, in effect, restricts without legislative sanction our juvenile system to the treatment of minor offenses." (emphasis added).

The Court's continued reliance on A Juvenile v. Commonwealth, supra, as its key precedent for interpretation of G.L. Chapter 119, Sec. 61, is clearly evident in its most recent decisions, notably: Commonwealth v. Clark, Mass. Adv. Sh. 237, 400 N.E. 2d 251 (1980); A Juvenile v. Commonwealth and Another, Mass. Adv. Sh. 1131, 399 N.E. 2d 27 (1980); and Two Juveniles v. Commonwealth, Mass. Adv. Sh. 2327, 412 N.E.2d 344 (1980).

The Difficulty in Effective Utilization of the Present Transfer Statute

Although no empirical data is available to substantiate the following proposition, it is possible that the Supreme Judicial Court's statutory interpretation of G.L. 119, Sec. 61, significantly contributed to the dramatic decrease in the number of state-wide juvenile bind-overs to Superior Court.¹¹

Bound by the decision, juvenile court judges are often unable to transfer juveniles charged with serious offenses who have had little, if any prior experience in the juvenile justice system or who could not be said to be unamenable to treatment within the juvenile justice system. In essence, a judge is faced with an almost insurmountable statutory burden of proving that a child is not amenable to treatment within the juvenile justice system. Moreover, the statute does not provide for transfer of the habitual serious juvenile offender.

As such, the Committee attempted to address those issues in its discussions and proposed transfer legislation to change the transfer process.

Proposed Transfer Statute

To adequately protect the public from the violent and habitual juvenile offender and to remove those juveniles who are not amenable to rehabilitation within the juvenile justice system, the Committee recommends the following transfer statute:

¹¹ Annual Reports of the Office of the Commissioner of Probation (1973-1973, p.29; 1974, p.76; 1975, p.126; 1976, p.75; 1977; p.36; 1978, p.42; 1979, p.47.)

If a child between fourteen (14) and seventeen (17) years of age:

1. is charged with a felony punishable by life imprisonment if an adult offender; or
2. is charged with a felony and has been previously committed to the Department of Youth Services following an adjudication of delinquency; or
3. on the motion of the Commonwealth,

the Court shall conduct a hearing for the purpose of determining if transfer to the Superior Court is warranted. If the Court finds that adequate protection of the public or the inability of the current juvenile justice system to rehabilitate the child warrants transfer to the superior court, it shall dismiss the complaints and order adult complaints to issue.

Notice of the transfer hearing shall be given to the child, his parent(s) or guardian, and his counsel no later than seven (7) days prior to the hearing unless waived by counsel. The clerk's office shall provide a form which will inform the child, his counsel, and his parents of the child's rights and the reason(s) for the transfer hearing.

At the transfer hearing, which shall be held prior to a hearing on the merits of the charges, the Court shall find whether probable cause exists to believe that the child has committed the offenses as charged.

The Court, in determining whether the public is afforded adequate protection if the juvenile court retains jurisdiction over the child, shall receive if available, but not be limited to, evidence on the following factors:

- 1) the seriousness and nature of the alleged offense;
- 2) whether the alleged offense was committed in an aggressive, violent or willful manner;
- 3) whether as a result of the offense the victim sustained personal injury and the severity of that injury;

- 4) the maturity of the child as reflected by his age, home situation and emotional attitude, including, but not limited to, psychological and psychiatric reports, if any;
- 5) the child's school and or truancy record, if any;
- 6) the past history of offenses by the child, if any;
- 7) whether the juvenile, at the time of the alleged offense was committed, was on escape from a DYS facility or DYS-affiliated program or on default from previous juvenile court proceedings;
- 8) the nature of any past treatment efforts, if any, for the child within the juvenile justice system;
- 9) the prospects for rehabilitation of the child within that system; and
- 10) the programs and facilities available to the juvenile within the existing juvenile justice system.

If the court enters written findings that the child, based on clear and convincing evidence, poses a danger to the public by jeopardizing the adequate protection of the public, or that the current juvenile justice system is unable to rehabilitate the child, the Court will order the complaints dismissed and adult complaints issued pursuant to subsection (a) of this section.

If the Court determines that the child should be treated as a delinquent child, the Court shall forthwith, on motion by or on behalf of the child, continue the proceedings until such further time as the court shall determine.

If the Court determines the child should be treated as an adult, the case shall thereafter proceed according to the usual course of proceedings and in accordance with the provisions of section thirty of Chapter 218 and Sec. 18 of Chapter 278. When such a complaint is issued, section 68 shall apply to any person committed under this section for failure to recognize pending final disposition in the superior court.

III. JUDICIAL SENTENCING

Current Massachusetts Sentencing Law

The present statute, G.L. c. 119, Sec. 58, provides a number of sentencing options for the juvenile court judge upon the adjudication of a delinquent child. Among the statutes' options are: probation, a provision for a continuance without a finding, commitment to DYS and restitution. Upon commitment, the Department of Youth Services is then vested with maintenance and parole powers.

Criticisms of the Present Statute

In examining the present statute, the Committee noted a number of drawbacks. Of primary concern was the lack of control by justices. Once committed, the child is under the authority of the Department of Youth Services (DYS), i.e., the length of commitment and type of treatment care is totally at the discretion of DYS. Another concern was the DYS' inability, over the past ten years to provide and monitor required services or treatment plans for the committed offender. In part, the Committee felt that this was due to an inadequate classification system. On the other hand, inappropriate space and/or insufficient funds were also cited as contributing factors. This oftentimes led to early parole from DYS without notification to the committing court. The final concern cited by the Committee was the desperate lack of long-term, secure treatment centers. (For more detail, see Chapter III on Care and Treatment Plan).

To remedy these problems the Committee endorsed the concept of judicial sentencing by which judges would impose specific commitment

periods to DYS. In this way, judicial determination of juvenile commitments would be made and monitored by the court.

By granting the court the authority to determine and monitor its commitments, the Committee believed that the public would be more adequately protected. That is, DYS could no longer release the violent, habitual offender; for whatever reason, i.e., lack of space, until such release had been authorized by the court. In turn, DYS could concentrate on delivering appropriate services to its committed children; and thus fulfill the requirement of mandate G.L. Chapter 119, Sec. 53 which states that juveniles should " . . . be treated, not as criminals, but as children in need of aid, encouragement, and guidance."

Recommendation For Judicial Sentencing

The Committee endorses the concept of creating three types of commitments to the Department of Youth Services, based on the seriousness of offense behavior.

1. Retain the existing placement power of DYS.
2. Create a category of repeat juvenile offenders who were previously committed to DYS and who are re-adjudicated. In such cases the Court could require secure care for up to six (6) months. The period of secure care could be extended by the Department.
3. Create a category of violent juvenile offenders who cause serious injury. In such cases, the Court would require secure care for up to twelve (12) months. The period of secure care could be extended by the Department.

The proposed statute accompanying the above recommendations would read as follows:

Repeal Chapter 119, Section 57 and insert in place thereof:

Section 57. Investigation and Report by Probation Officer

Prior to the disposition in any case where a juvenile is found delinquent,

a probation officer shall prepare a report to aid the court in the exercise of its discretion. The report shall be prepared in a standard format as prescribed by the commissioner of probation and shall include, but not be limited to, information about the juvenile's family situation, present offense, prior delinquent history, educational background, physical and mental health, and response to any previous treatment efforts provided by voluntary or public agencies. Copies of the probation report shall be disclosed to the attorney for the Commonwealth within a reasonable time in advance of the dispositional hearing. The Court may, in extraordinary cases, exempt from disclosure such parts of the report that:

- a. contain diagnostic opinion which, if disclosed, might seriously disrupt a program of rehabilitation; or
- b. would compromise sources of information obtained upon a promise of confidentiality; or
- c. might result in harm, physical or otherwise, to the juvenile or other persons.

If the court exempts part of the report from disclosure, the court shall so inform the parties and shall state the reasons for its action.

The court or the juvenile, with the consent of the court, may waive the preparation of a probation report if the court finds that there is sufficient information already available to enable the meaningful exercise of the court's discretion.

Amend Section 58 of Chapter 119 by striking out the second and fourth paragraphs of that Section.

Amend Chapter 119 by the addition of Section 58A

58A. Dispositional Hearing; Probation; Commitment to Custody of the Department of Youth Services

(1). If a juvenile is adjudged delinquent, a dispositional hearing shall be held by the court as soon as possible, but no later than fifteen days after the conclusion of the hearing of the complaint, unless the court finds that further time is necessary to obtain information essential to enable the appropriate exercise of the court's discretion. At the dispositional hearing the court shall consider the information presented in the probation report, if any, and shall consider such additional information as may be presented by the juvenile, the counsel for the juvenile, or the attorney for the Commonwealth that will assist in the exercise of the court's discretion. In determining the appropriate disposition, the court may consider the following factors:

- a) The degree to which the juvenile presents a danger to the community.
- b) The desirability of making the juvenile offender accountable for his or her delinquent behavior.
- c) The interests of justice in providing a disposition commensurate with the age, offense, and delinquent history of the juvenile offender.
- d) The juvenile offender's need for, and amenability to, treatment and supervision.
- e) The resources available to ensure public safety and appropriate treatment.
- f) The types of disposition available to the court.

(2) At the time of disposition, the court may:

- a) Place the case on file.
- b) Place the juvenile on probation for such time and on such conditions as may seem proper.

- c) Commit the juvenile to the custody of the Department of Youth Services.
- d) Find that the juvenile is a repeat juvenile offender and commit the juvenile to the custody of the Department of Youth Services with an order that the juvenile be treated in a secure facility for a maximum of six months or for any lesser period as may be ordered by the court. The court may commit any juvenile under this subsection if the court determines, by a preponderance of the evidence, that each of the following circumstances applies:
 - 1. The juvenile had attained his fourteenth birthday at the time of the offense.
 - 2. The juvenile has been previously committed to the Department of Youth Services.
 - 3. Less than twelve months elapsed between last occasion on which the juvenile was adjudicated delinquent and the present offense; provided, however, that any period of time during which the juvenile was confined in a secure facility may be excluded from the computation of the twelve months.
 - 4. The attorney for the Commonwealth has, prior to the hearing on the complaint, filed with the clerk of the court a notice specifying that the juvenile is a repeat offender and setting out with particularity the reasons why such attorney believes the juvenile to be a repeat juvenile offender.
 - 5. The juvenile or his counsel have received prior to the hearing on the complaint, a copy of the notice filed by the attorney for the Commonwealth alleging that the juvenile is a repeat juvenile offender.
 - 6. The juvenile has exhibited a persistent or escalating pattern of delinquency that is sufficiently serious to require his confinement in a secure facility.
 - 7. An order of disposition under this subsection is appropriate in light of the factors enumerated in Section 58A of (I) of this Chapter.
- e) Find that the juvenile is a violent juvenile offender and commit the juvenile to the custody of the Department of Youth Services with an order that the juvenile be treated in a secure facility for a maximum of twelve months or for any lesser period as may be ordered by the court. The court may commit any juvenile under this subsection if the court determines, by a preponderance of the evidence, that each of the following circumstances applies:
 - 1) The juvenile had attained his fourteenth birthday at the time of the offense.

- 2) The attorney for the Commonwealth has, prior to the hearing on the complaint, filed with the clerk of the court a notice specifying that the juvenile is a violent juvenile offender and setting out with particularity the reasons why such attorney believes the juvenile to be a violent juvenile offender.
- 3) The juvenile or his counsel have received, prior to the hearing on the complaint, a copy of the notice filed by the attorney for the Commonwealth alleging that the juvenile is a violent juvenile offender.
- 4) The offense committed by the juvenile was an offense against a person and was characterized by:
 - a) The death of a victim; or
 - b) Serious bodily injury to the victim for which the juvenile was the proximate cause; or
 - c) The immediate prospect of serious bodily injury to the victim during a direct confrontation between the juvenile and the victim where the juvenile was armed with a dangerous weapon where the offense was characterized by force and violence; or
 - d) The juvenile employed or otherwise directed another person to commit an offense which caused the circumstances defined in (a), (b), or (c) above.
 - e) Suspend any order of disposition permitted under this Section and place the juvenile on probation for such time and on such conditions as may seem proper.
- 5) An order of disposition under this subsection is appropriate in light of the factors enumerated in Section 58A (1) of this Chapter.

3). In the case of any juvenile committed to the Department of Youth Services under Section 58A (2) (d) or Section 58A (2) (e) of this Chapter where the court has ordered a period of treatment in a secure facility, the Department shall designate the facility in which the juvenile will be held. The Department may not transfer such juvenile to a non-secure facility prior to the completion of the period of treatment ordered by the court unless the Department has obtained the approval of the court.

4). For the purpose of this Section, a secure facility is defined as a facility in which a juvenile offender may be placed, which is characterized by physically restricting construction, devices and procedures, and is designated as a secure facility by the Department of Youth Services.

5). In the case of any juvenile committed to the Department of Services under this Chapter, if the court finds at the dispositional hearing that the juvenile has a mental illness, the court may direct the temporary transfer of the juvenile to the custody of the Commissioner of Mental Health who shall arrange for the admission of the juvenile to an appropriate facility of the Department of Mental Health within fourteen days.

Juveniles transferred to the Department of Mental Health under this subsection shall be retained by the Department of Mental Health for care and treatment for the period ordered by the court. At any time prior to the expiration of such period, if the Commissioner of Mental Health determines that the juvenile is no longer mentally-ill, the Commissioner shall make application to the court for an order transferring the juvenile back to the Department of Youth Services. The court shall review the application and either continue the temporary transfer to the Department of Mental Health or return the juvenile to the custody of the Department of Youth Services. Time spent by the juvenile in the custody of the Department of Mental Health shall be credited and applied towards any period of treatment in a secure facility that the court may have ordered under Section 58A (2) (d) or Section 58A (2) (e) of this Chapter.

Amend Section 6 of Chapter 120 by inserting after the words "Department of Youth Services" the following phrase:

"under Chapter 119, Section 58A (2) (c),"

Further amend Section 6 of Chapter 120 by adding, at the end of that Section, a new paragraph as follows:

"When a juvenile is committed to the Department under Section 58A (2) (d) or Section 58A (2) (e) of Chapter 119, the Department may not grant parole or conditional liberty or discharge prior to the expiration of any period of treatment in a secure facility ordered by the court unless the Department has obtained the prior approval of the court."

Amend Section 12 of Chapter 120 by striking the first sentence of that Section and substituting, therefore, the following sentence:

With respect to juveniles committed under section 58A (2) (c) of Chapter 119, the Department may direct release under supervision at any time."

Further amend Section 12 of Chapter 120 by adding, at the end of that Section, a new paragraph as follows:

With respect to juveniles committed under Section 58A (2) (d) or Section 58A (2) (e) of Chapter 119, the Department may not direct release under supervision prior to the expiration of any period of treatment in a secure facility ordered by the court unless the Department has obtained the prior approval of the court."

IV. SECURE TREATMENT AND DETENTION PLACEMENTS

Introduction

The Committee recognized that the issue of secure treatment and detention placements is a highly controversial topic; that the purpose of increasing the number of placements not be substantiated by a desire to merely retain children, but because of present insufficient DYS placements.

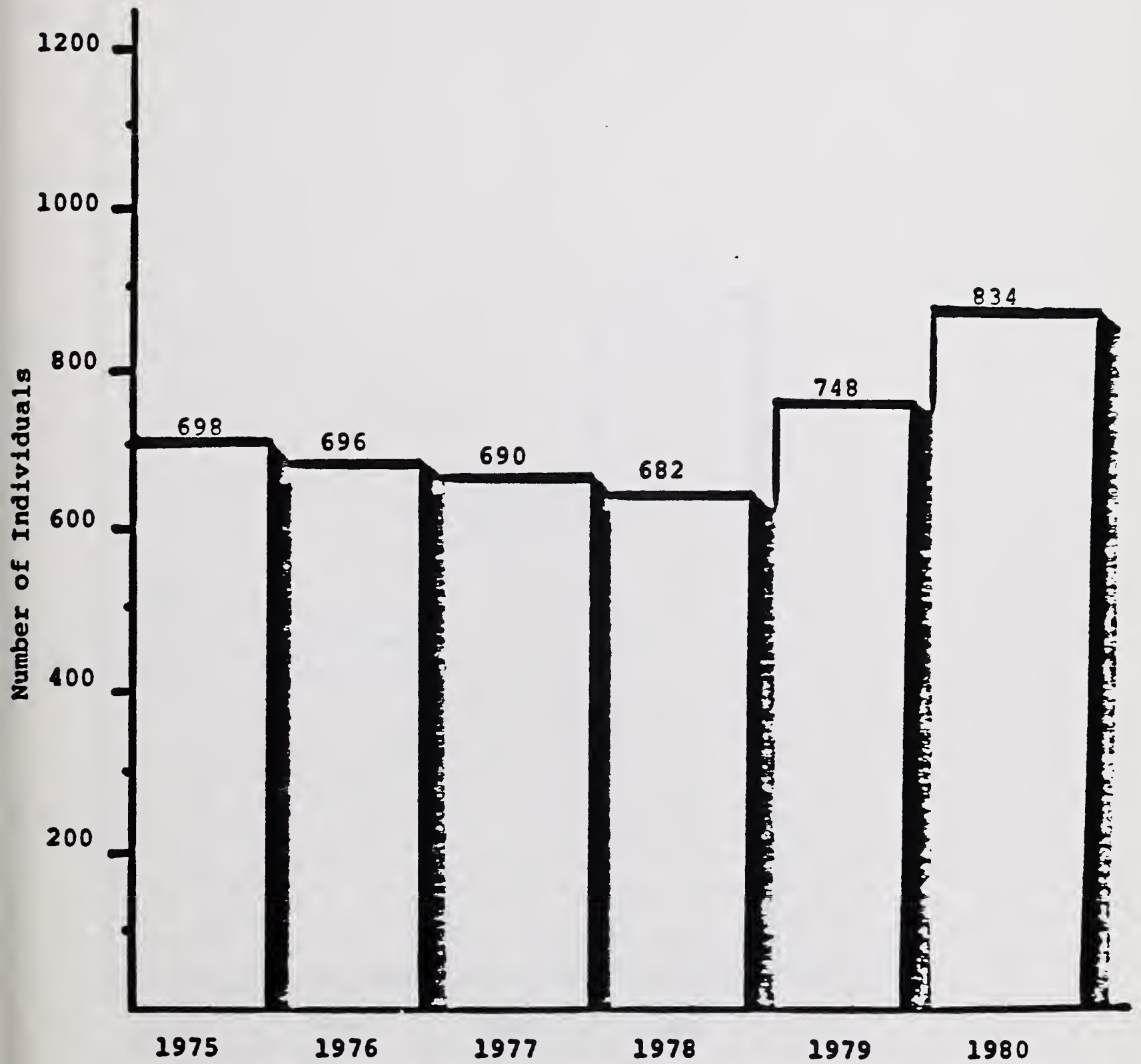
Stated differently, the concern was that the courts be able to commit to DYS knowing that the Department has at its disposal the required number of placements to service all those children in need of secure treatment/detention as well as who pose a threat to public safety.

Present DYS Placement Needs

According to recent DYS figures, there are presently only 76 secure treatment beds, out of which 59 are for boys and 17 for girls. In terms of secure detention beds, DYS has 129 placements. Considering the number of children who are committed to DYS in the course of a year, the number of available placements is incredibly low. For instance, in 1979 a total of 696 children were committed for services to DYS for the remainder of their minority. Note that this figure (696) does not include those children who were temporarily committed to DYS, when these children are included, the total is 748. In 1980, the number of new DYS commitments increased to 834.

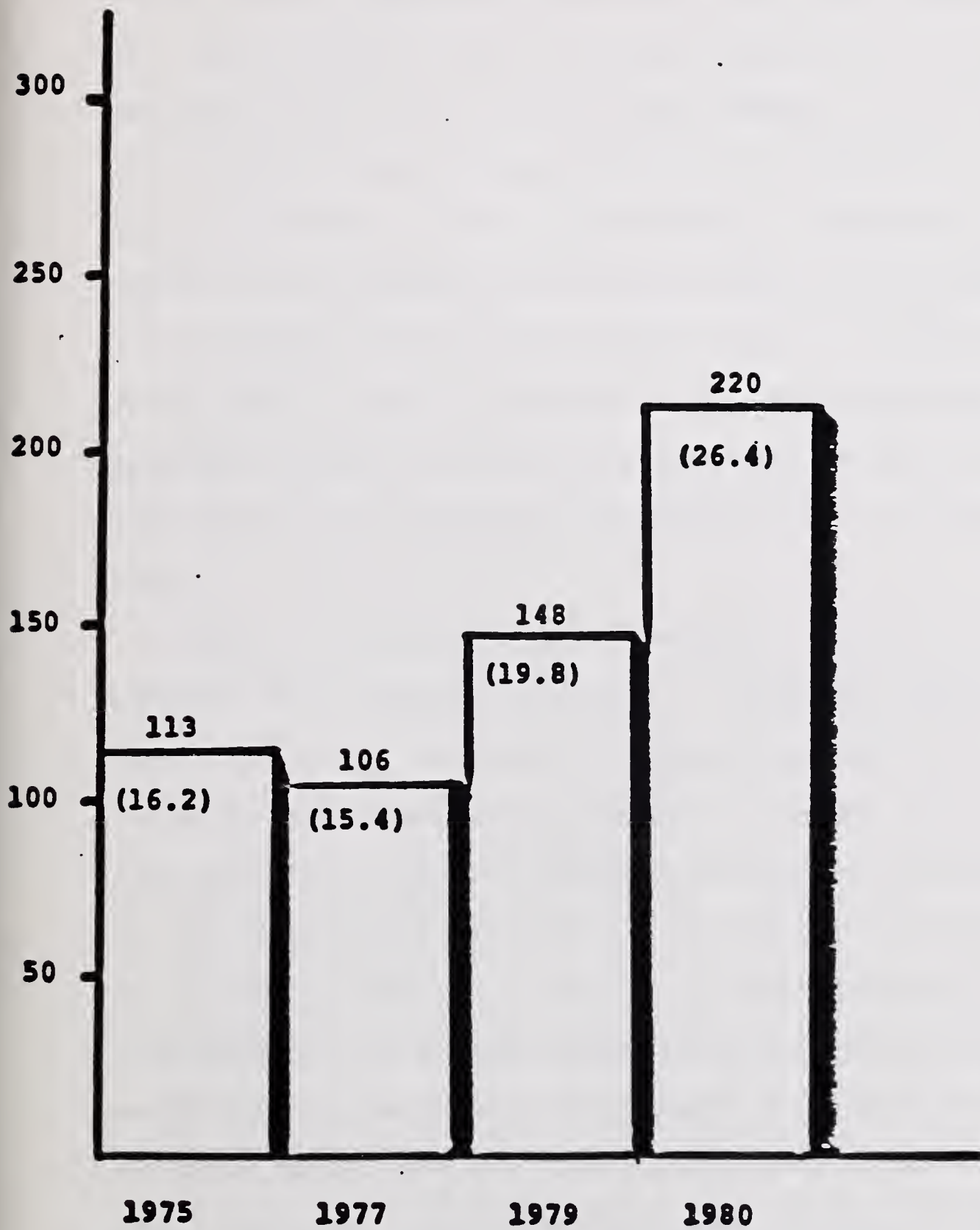
The 1979 data further reveal that of the 748 new commitments, 148 or 19.8 percent were violent offenders. In 1980, the percentage of violent juvenile offenders escalated to 26.4 percent or 220 new commitments. (See Graphs 1 and 2 on the following pages).

GRAPH 1



NUMBER OF NEW DYS COMMITMENTS BY YEAR

GRAPH 2



**NUMBER AND PERCENTAGE OF VIOLENT OFFENDERS
IN NEW DYS COMMITMENTS**

These statistics are best interpreted when compared to the actual number of juvenile arrests and rates. The increase in the overall arrest rates when coupled with an increase in new DYS violent, juvenile commitments, clearly show that the current number of available placements is insufficient to adequately service those in need of such treatment. This situation is compounded by the type of programs available to or within DYS. Often, the programs contracted by DYS are undermanned, underfunded, and often staffed by under-educated personnel. This is a disservice to the children who are in desperate need of treatment, secure or otherwise. In short, DYS is in critical need of additional secure treatment facilities/placements with appropriate programs providing educational, psychological and vocational assistance to improve the efficiency and effectiveness of the juvenile justice system.

Based on the above, the Committee agreed that DYS is in need of additional secure treatment placements. A computer projection of the Department's future needs, based on a suggested classification system and on the present judicial sentencing procedures of the juvenile court was made available to the Committee (See Appendix). According to this projection, the Department would need between 170 and 200 additional placements if they are to meet their future needs. However, the Committee felt that with the implementation of the proposed judicial sentencing statute, the Department would require even more placements. Therefore, it was the consensus of the Committee that DYS have at a minimum, an additional 250 secure treatment beds. After further consideration this proposal was refined to include at a minimum, 50 secure detention placements.

RECOMMENDATION

Increase the Number of Secure Beds

The Committee finds an immediate need for an increase in the number of secure treatment and detention beds. The Committee urges the Governor to recommend funding of the Department of Youth Services secure facilities account at the level proposed by DYS for Fiscal Year 1982. The Committee also urges the Governor to recommend the infusion of additional monies to the Department of Youth Services operating and capital accounts to enable the Department to carry out the plans to provide as soon as possible a minimum, of two-hundred fifty (250) secure treatment beds and fifty (50) detention beds.

V. CARE AND TREATMENT PLANS

Introduction

The philosophy of the Massachusetts juvenile justice system is set forth in the G.L. c.119, Sec. 53 which states in part: " ...care, custody and discipline of the children brought before the court shall approximate as nearly as possible that which they should receive from their parents, and that, as far as practicable, they shall be treated, not as criminals, but as children in need of aid, encouragement and guidance."

Based on this philosophy then, confinement to the Department of Youth Services (DYS) of adjudicated delinquents should not be considered punishment but rather an opportunity to provide appropriate discipline and treatment for the child by DYS in its role as surrogate parent.

Clearly, DYS is responsible for the development and implementation of individualized care and treatment plans which are specifically tailored to the child under their custody.

Problems With the Present System

The effectiveness of DYS to meet this statutory requirement depends, in part, on the quality of a broad and diverse range of service programs. Care and treatment in the context of a secure system must be geared to the special and diverse needs of each youth. Examples of these services include, but are not limited to the following: medical and psychiatric care, educational and vocational training in counseling (individual, group and

family) trained supervision and guidance, recreational programming, minimum nutritional requirements and behavior modification. The provision of these services must take place in a physical environment suited to the rendering of these services. In total, the delivery of treatment services should ensure the reintegration of the youth into the community.

However, the indiscriminate utilization of the host of treatment services can produce duplication and inefficiency for treating juveniles. Exposure to a wide variety of treatment techniques whereby a youth is subjected to a myriad of treatment modalities is also ineffective and could, in fact, be injurious to a troubled youth. To counter any haphazard approach to care and treatment of DYS committed youth, a plan should be developed. This plan would specifically identify the full range of treatment modalities required to rehabilitate the youth; milestones and time tables to monitor the progress of the youth; and most importantly, a clearly defined goal statement upon which to determine the degree, type, and availability of care and treatment services.

After-Care Treatment Plans

The development and implementation of an individualized treatment plan for a child during commitment addresses only part of the care and treatment philosophy. In order to be effective, any care and treatment plan must also be accompanied by an after-care plan which takes into account the reintegration of the child into society following release from the DYS. In effect, a post-release strategy is needed to ensure that the care

and treatment plan implemented during commitment will be followed up to make certain that the care and treatment plan is complete and not subject to an arbitrary release date. This after-care plan should be developed prior to the release of the child in order that the court will have some understanding as to what will happen to the child following commitment with particular reference as to a resolution of the problems which caused the youth's confinement to DYS.

Monitoring of Treatment Plans

The Court, in committing a youth to DYS, maintains a vested interest in the quality of care and treatment provided by DYS to the committed youth. In order to ensure quality of treatment and care, it is imperative that the court be able to look into the status of a child committed to DYS to determine if, and to what extent, the court order is being carried out and to ensure compliance by the Department with applicable regulations. In this way, the Court performs an oversight capacity to DYS, reaffirming the philosophy stated in G.L. Chapter 119, Sec. 53.

The following recommendation concerning care and treatment plans is, not intended as a criticism of the present DYS system of care and treatment plans, but merely provides a legislative mandate to provide care and treatment plans for each individual committed to DYS.

RECOMMENDATIONS

1. Individualized Treatment Plans

The Department of Youth Services shall prepare an individualized treatment plan for each juvenile committed by the court to secure care and

VI. DEPARTMENT OF MENTAL HEALTH

Introduction

Mental health services for those delinquent children who require such services should not be limited to mere examination and hospitalization. Rather, such services should be provided from the beginning of a child's involvement with the juvenile justice system, that is, from arraignment, through and after commitment. To deal effectively with those delinquent children who need mental health services, the court must be able to request that diagnostic examinations be performed by the Department of Mental Health (DMH). In addition, the court must have the authority to order commitment for observation and care.

Furthermore, services currently available from the court and other agencies to delinquent children, must be coordinated. The concept that a single state agency is totally responsible for a delinquent child, at any point in time, is simply invalid. The Department of Youth Services should not be totally responsible for providing mental health services. One alternative would be to involve other state agencies, e.g., the Department of Mental Health, which has the expertise to provide such care and treatment. Thus, the Committee submitted the following basic premises:

1. The Department of Mental Health should be available as a source of services from the beginning of any delinquency proceedings to provide diagnostic and evaluative services for the care and treatment of juveniles.

2. The Department of Mental Health must provide secure treatment of mentally-ill and severely disturbed youngsters, and must provide related services to the family.

To accomplish these objectives, three critical stages, in the judicial process pre-trial, post-trial and post-commitment evaluation, where DMH involvement is required need to be scrutinized and changed. The remaining portion of this section addresses each of these three stages. Included in each section is a discussion of the current conditions followed by recommendations for improvement.

Pre-Trial Evaluation

Observational Commitments to Determine Competency and/or Criminal Responsibility

Chapter 123, Sec. 15(b) authorizes a court to order the hospitalization of a person (or delinquent) after examination under Sec. 15(a), to a public facility for a period not to exceed twenty days in order to determine competency and/or criminal responsibility.

However, there are few juvenile facilities which provide adolescent care placements. In spite of this lack of facilities, the Department of Mental Health has requested that other mental health regions refer juveniles to facilities within their own mental health area. Moreover, commitments to most state hospitals result in a juvenile being housed in an adult psychiatric ward. An alternative to this situation could be the use of private psychiatric units, some in partnership with the Department of Mental Health to provide a resource for observational commitment of juvenile offenders.

Recommendation: The first sentence of Section 15(b) of Chapter 123 be amended to read in line two . . . "a public or private facility." The Department of Mental Health should provide specialized units for the examination and care of mentally-ill delinquent children. The Department should seek to enter into "partnership agreements" with private psychiatric facilities to provide observation and examination of delinquents not requiring strict security.

Hospitalization of Persons Incompetent to Stand Trial or Not Guilty by Reason of Mental Illness

Section 16 of Chapter 123 provides that if a person found to be incompetent to stand trial, or not guilty by reason of mental illness, then that person may be hospitalized for a period of forty days for further observation or examination. Enabling legislation, making Sec. 16 applicable to juveniles is necessary.

Recommendation: The first sentence of Chapter 123, Sec. 16, be amended by adding the words "or delinquency," after the word, "criminal" in line one. Line one would then read, "The court having jurisdiction over the criminal or delinquency proceedings may order" . . .

Recommendation: Section 16(e) be added to Sec. 16 of Chapter 123. "The provisions of Sec. 16(a-f), above, shall also be applicable to an alleged delinquent child."

Post-Trial Evaluations

Psychiatric and Other Clinical Examinations as an Aid in Sentencing

Chapter 123, Sec. 15(f) allows the court to utilize the provisions of Section 15(d) in which a psychiatric or other clinical examination may be ordered as an aid to sentencing. This section has perhaps its most direct application for those delinquents examined under the provisions of Sec. 15(a) and (b) and found unable to be committed under the provisions of Sec. 7 and 8, but who are either mentally-ill or severely disturbed. In its most frequent application the clinical examination is seen as a pre-requisite to in-patient observation in a facility.

Recommendation: The Task Force recommends that this section also be used as a means of obtaining additional clinical input for sentencing decisions from DMH professionals and not merely as a pre-requisite to observation in a facility.

Observation and Evaluation as an Aid in Sentencing

Implementation of the above proposal demands that secure, and non-secure units be available to study delinquents.

Recommendation: Secure treatment units should be established to handle mentally-ill and severely disturbed delinquents. DMH should establish specific agreements with partnership psychiatric units for those delinquents not requiring strict security. The order of the court for observation should be binding on private facilities - said facilities to be defined by statute from a listing provided by DMH.

Petition by Superintendent or Medical Director for Commitment Under G.L. c. 123, Sec. 7 and 8.

Adequate facilities are not now available. Adolescent treatment units must be provided.

Recommendation: The proposed unit at Worcester State Hospital should be given a high funding and implementation priority by DMH and by the Governor.

Diagnostic Study

G.L. c. 119, Sec. 68A allows the court to refer a child between 7 and 17 years of age to DYS, a court clinic, or DMH, with the Department of Mental Health's consent and with the consent of the parents or guardian, for diagnostic study on an in-patient or out-patient basis.

Section 68A also allows the court to commit a child in default of bail to the DYS for a period not to exceed thirty (30) days while undergoing diagnostic study.

The referral process of Section 68A is ineffectual, because DYS has limited funds and facilities to perform diagnostic services. The Department of Mental Health, while mentioned in the statute, must give its consent to accept referrals under this section. Without the requirement that DMH accept court-ordered referrals, diagnostic studies of delinquents are difficult to secure since courts of the Commonwealth do not have court clinics or specific agreements with area mental health providers.

Recommendation: The Department of Youth Services should provide secure diagnostic units. The Department of Mental Health professionals should be utilized to perform professional services for those youth committed to DYS secure detention.

The first sentence of Sec. 68A of Chapter 119 in line 6 should be amended by deleting . . . "with its consent" after the words, "or the Department of Mental Health."

The Department of Mental Health's community services should be utilized for those youth who require detention.

Change sentence 1 of Sec. 68A to read:

"A court may, at its discretion, for a child between 7 and 17 years of age, held by the court for further examination, trial or continuance, or for indictment and trial under the provisions of Section 73 to 8c inclusive, or to prosecute an appeal to a Juvenile Appeals Sessions, order a diagnostic study to be completed by DYS, any court clinic, or DMH."

Post-Commitment Evaluation

G.L. c. 119 Sec. 58 authorizes the court, after making an adjudication of delinquency, to place the case on file, or place the child in the care of a probation officer for such time and on such conditions as may seem proper or to commit the child to the custody of the Department of Youth Services.

The commitment of a child to DYS is, in common practice, an indication by the court that the crime is of such seriousness, or that the child requires security and services which are not available in the community. The court should be able to expect that DYS will provide limits, control and services which cannot be provided by probation. In actuality, many children are returned home often with no more supervision and services than were available prior to the commitment. Further, the commitment to DYS often

signifies the end of other agency involvement with the child and his family. Consequently, a committed child becomes a "DYS problem" in the eyes of other state agencies and the community.

The court, when it elects to commit a child, has no control or knowledge of the proposed plan of treatment for that child. It is precisely this lack of continuity of mental health services that lies, in the Task Force's view, at the root of our delivery-of-services problem. Some form of post-commitment planning that mandates inter-agency cooperation is essential.

Recommendation: Inter-departmental teams and binding agreements between the Department of Youth Services, the Department of Social Services, the Department of Mental Health, and the Office For Children should be established to coordinate the care and treatment of delinquent youth.

Under this model, a commitment to DYS would require that a diagnostic and prescriptive study be completed before a treatment plan could be implemented. An inter-departmental team which would be comprised of a representative from the Department of Youth Services, Department of Social Services, and the Office For Children would develop and agree upon a treatment package. Inter-agency service agreements consented to by the team would be binding upon said agencies. Under this model, specific functions would be performed; i.e., custody, counseling, placement, family support services, monitored by several state child care agencies in a coordinated fashion. (The Office For Children is envisioned as the monitoring agency.)

Preliminary Commitment - An Alternative to Inter-agency Binding Agreements

Under this alternative, a child would be committed to DYS for a specified time, i.e., 30 to 45 days for the completion of the inter-agency report. This report and recommendation agreed to by the aforementioned team would be submitted to the court. The court, upon accepting the report, would make the commitment final, thus binding all agencies. However, the court would have the option to return the child to probation for community service and supervision if the report or case plan was deemed unacceptable.

Family Services for Families of Committed Delinquents

Either of these models suggests that a committed child has varying needs that cannot be met by any single agency. The needs of the child's family must also be addressed while the child is out of the home if, in fact, a successful re-integration is possible.

Recommendation: Some model of case-planning should be adopted which carries with it the responsibility to provide services for the family of committed youth. It is recommended that DMH provide the family with psychiatric, psychological and family counseling services, and that DSS assume the responsibility for abuse prevention and family re-integration issues. The Office For Children should monitor the community plan.

VII. STATE-WIDE DIVERSION PROGRAM

Introduction

The authority of the court to divert defendants from the criminal justice system is found in G.L. c. 266A Sec. 2: Diversion has become an acceptable alternative to the prosecution of minor, first-time offenders. However, the fiscal constraints of government have prohibited the full-scale implementation of diversion programs. In the past, many court diversion programs were established with federal (LEAA) funds. With the demise of this federal program, funds to support this endeavor have ceased. Court budgets facing cutbacks have discontinued or have not implemented diversion programs.

Problems of the Present System

Currently, first-time juvenile offenders are diverted from the juvenile justice system only in a limited number of jurisdictions, in which diversion programs are in operation. Because of this, a question of equal protection arises, i.e., if a juvenile resides in a jurisdiction which maintains a diversion program, and is eligible for diversion, the juvenile will not receive a trial, conviction, or a criminal record, while a similar juvenile appearing before a court without a diversion program will be subject to all the sanctions of the juvenile court. Many courts fail to realize that diversion programs are cost-effective. If diversion is invoked the costs (time and money) of a trial

are saved. When restitution is used as a form of diversion, the defendant is ordered to compensate the victim of a crime, thereby enhancing the public's image of the quality of justice. With community support of diversion programs, operational costs are similar to probation (which is the most frequent sentence for minor, first-time offenders).

Juvenile Diversion Program of Norfolk County

As a model, the Committee cited the Norfolk County Diversion Program. This program is a highly successful restitution-oriented diversion program. The Appendix to this Reprot contains a descriptive report on the program submitted to the Committee by the Norfolk County District Attorney's Office.

RECOMMENDATION

State-Wide Diversion Program

The Committee recommends that a state-wide diversion program be created to divert first-time minor offenders who may be identified by the court and/or probation department as suitable candidates away from the juvenile justice system.

VIII. DEPARTMENT OF PROBATION: PURCHASE OF SERVICE FUNDS

Introduction

The Committee, after developing strategies for first-time, minor offenders (diversion) and the repeat violent offenders (transfer, secure detention, care and treatment) then focused on the juvenile offender who would be best served by a term of probation.

Presently, juveniles who are sentenced to a term of probation are provided services based on the ability of an individual court's probation department and/or probation officer to secure state, local, or private rehabilitative services for a troubled juvenile. Many times the availability of these services is determined by the location of a court, i.e., a large urban area with many resources versus a rural area with few, if any, services.

Problems With the Present System

A disparity exists among the various probation districts with respect to the availability, quality and accessibility of services needed to make the probation sentence meaningful and effective for the juvenile offender.

In order to mitigate this disparity, funds should be made available to the Department of Probation for the purpose of creating a purchase of services system for juveniles on probation. With such funds, the Commissioner of Probation could allocate funds for those courts which lack appropriate services. Also, the Commissioner could provide emergency funds to those special cases requiring services which are not readily available to a particular court.

Such an endeavor would likely result in a more equitable delivery of services to juveniles on probation, juveniles committed to DYS and an enhancement of the present juvenile probation system.

RECOMMENDATION

Purchase of Services Funds for the Department of Probation

The Office of the Commissioner of Probation shall be provided with a sum of money to use exclusively to provide juvenile court and juvenile session probation departments with the ability to provide services to juveniles who do not require treatment in a secure setting and are not on a committed status to the Department of Youth Services.

IX. STATE- WIDE JUVENILE COURT SYSTEM

Introduction

There are four full-time juvenile courts in the state's four major metropolitan areas: Boston, Springfield, Worcester, and a county-wide juvenile Court in Bristol County. These courts have jurisdiction over all delinquency, status, abuse and neglect cases.

In 1976, under court reorganization, these four juvenile court jurisdictions were consolidated into the Juvenile Department of the Massachusetts Trial Court and placed under the supervision of a Chief Administrative Justice.

The jurisdictional responsibility for juveniles in other parts of the state rests with the seventy-two (72) district courts. Each individual district court conducts one or two juvenile sessions a week. District court justices sit as juvenile justices during these sessions. There is a Chief Administrative Justice for the District Court Department.

Because of these two judicial jurisdictions, i.e., juvenile and district, there is a separation of responsibility for juveniles in the state. Both Administrative Justices promulgate orders, directives and policies concerning the disposition of juvenile cases. Because juvenile and district court justices operate separately, they may treat similar cases in a different manner.

Since juvenile criminal law is distinct from adult criminal law, an integrated state-wide juvenile system is needed to adequately provide the services required for juveniles appearing before the court.

In order to establish actual need for a state-wide juvenile court system, research was conducted on the following topics:

1. Population figures for each of the counties within the Commonwealth.¹²
2. District Court statistics in the city or county where there are no full-time juvenile courts for the following data:¹³
 - (a) Total criminal adult complaints;
 - (b) Total small claims and civil complaints;
 - (c) Total juvenile complaints heard in District Courts;

The number of juvenile probation officers, either exclusively assigned to handle juvenile matters or handling both juvenile and adult matters, within each county or district.

(See Attachment in the Appendix which provides a detailed breakdown of the above-mentioned data.)

These statistics and accompanying material, make it apparent that there is a strong need for more full time juvenile judges and/or courts. With this in mind, questions arose as to the best way to implement this regulation which in turn raised the following questions:

1. Should each county have a full time judge or should one judge serve more than one county?
2. Should territorial boundaries be established by county or by region (similar to the Trial Court Regional Designations)?
3. What facilities, if any, are available for juvenile courts?
(As an example: at present, there is a court room, judge's lobby and probation office space in the Barnstable District Court. Are other such facilities available throughout the Commonwealth?)

¹² 1975 Census Report

¹³ 1979 Annual Report Office of the Chief Administrative Justice of the Trial Court.

4. What problems do the district court judges, clerk/magistrates, and probation officers have, if any, under the present system of dealing with both adult and juvenile cases?

Due to the limited amount of time available, the Committee opted to request that a comprehensive needs assessment be undertaken prior to the establishment of a state-wide system.

However, due to the present separation of juvenile jurisdiction between the juvenile and district departments, as well as the specialty of juvenile law, immediate steps should be taken to increase the number of juvenile court jurisdictions and/or the number of juvenile court justices.

RECOMMENDATION

State-Wide Juvenile Court System

The Committee endorses the concept of a state-wide juvenile court system. However, because of the cost required to implement such a system and the fiscal constraints on state government, the Committee recommends that at least one more juvenile court jurisdiction be established in one or more of the following counties: Middlesex, Barnstable, Essex, Plymouth or Berkshire. Moreover, to provide immediate assistance to the Juvenile Court Department, the Committee recommends that five additional juvenile justices be appointed.

X. PROVISIONS FOR JUVENILE JUSTICE EDUCATION

Introduction

The need for the training of juvenile court personnel is well recognized by the Massachusetts Trial Court. Provisions for the training of judges and clerks is authorized by G.L. c. 211B Sec. 18. which establishes personnel standards for the Trial Court. In addition, the Commissioner of Probation has promulgated a directive which provides comprehensive guidelines for the training of probation officers.

In furtherance of the legislative requirement of juvenile training, the Court has established a position entitled Education Specialist. This individual is responsible for the identification of training needs within the Trial Court system. Once needs are identified, resources are secured to provide the needed training; often resources will be garnered from the court budget, or from other agencies. Some of these agencies include the Massachusetts Criminal Justice Training Center, the Flashner Institute, the Department of Mental Health, and other similar agencies. In response to training needs which exist, but not readily addressed by these resources, the Training Unit of the Personnel Section of the Administrative Office of the Trial Court has budgeted approximately \$60,000 to conduct special training sessions. The general training policy of the Trial Court is to be flexible enough to meet the ever changing training needs of the judiciary.

In addition to the formalized training sessions authorized by the Trial Court, the Chief Administrative Justice has allowed justices to attend

educational sessions of particular interest not to exceed five (5) days in any given year.¹⁴

The District Court Division of the Trial Court, which maintains responsibility for juvenile court sessions in the District Division, also provides training to justices on selected juvenile issues. As an example, the District Court Division will conduct a two day seminar in June, 1981, for District Court Justices on the topic of "The Family". Once again, juvenile court training, per se, is not offered, but rather training on timely, selected topics are offered to district court justices.

The Juvenile Division of the Trial Court, which consists of four jurisdictions, conducts limited training, i.e., based on the availability of resources. In the past, this training has been general and offered in conjunction with the Massachusetts Continuing Legal Education Committee, National Council of Juvenile and Family Court Judges (Reno,- Nevada), the Flashner Institute, and the Massachusetts Criminal Justice Training Council.

The Commissioner of Probation outlined the Department's training policy/requirements in a directive entitled Policy Statement on Required Probation Officer Training dated September 18, 1978. This comprehensive directive provides the framework for adequate training of probation officers.

The Commissioner's directive stated that all probation officers are required to complete a minimum of 45 hours of in-service training over a three-year period. Course content and the delivery of training of probation officers is the responsibility of the Office of the Commissioner of Probation. Assistant Chief Probation Officers actually train individual

¹⁴ Administrative Order No. 3., April 25, 1980.

probation officers. In addition, the Office of the Commissioner of Probation certifies courses offered by local educational institutions. Probation officers may attend these approved courses in lieu of/or in addition to the minimum 45 hours of required training.

The course content of the Department of Probation's training curriculum includes a variety of topics pertinent to the complex role of the probation officer. However, a separate, that is, a training module specifically designed to educate juvenile probation officers does not exist. Rather, issues pertaining to the juvenile justice system are scheduled for training as the need may arise.

The need for specific, comprehensive training for both judges and probation officers has been noted by the Commissioner of Probation, who would like to see joint training sessions for judges and probation officers on topics of mutual interest.

Problems of Utilizing the Current Education System

The need for standardized training of juvenile court personnel varies with the different divisions of the Trial Court. Although all concerned agree that additional formalized training would be beneficial, the standardization of training for juvenile court personnel does not exist because of the overlapping of juvenile court responsibility between the District and Juvenile Court Departments of the Trial Court.

Central to the issue of training is the availability of resources and/or funds to support future endeavors. To date, the Judicial System has received training from a wide variety of sources including, among others, court-budgeted line items, the National Council of Juvenile and Family Court

Judges, the Flashner Institute, the Massachusetts Criminal Justice Training Council, and the Massachusetts Continuing Legal Education Council. Currently, the Trial Court lacks the financial resources to provide adequate training for juvenile court personnel. In order to formalize training, additional funds are needed.

It is apparent that coordination among the individuals responsible for the training of juvenile court personnel is needed in order to provide a unified statement/strategy of the nature and extent of training required of juvenile court personnel. The Chief Administrative Justice of the Trial Court should give high priority to the training of juvenile court personnel, as a priority and direct the establishment of training standards and the development of a training curriculum and timetable for the delivery of these services.

The Committee favors the implementation of specialized training for justices and probation officers and proposes the following recommendation.

RECOMMENDATION

Education of Juvenile Justice Professionals

The Committee recommends specialized training and education for court personnel who handle juvenile cases. The responsibility for said training and education rests with the Administrative Justice of the Trial Court of the Commonwealth, the Administrative Justices of the District and Juvenile Divisions of the Trial Court as well as the Commissioner of Probation.

Therefore, the Committee recommends that the Administrative Justice of the Trial Court requests a budgetary amount specifically designated for juvenile justice training and education. An appropriate portion of this

amount should be designated for out-of-state training for justices and probation officers assigned to juvenile cases.

Further, the Committee recommends that the Governor and the legislature support this budgetary request.

XI. IMPROVEMENTS IN OTHER AREAS

In its analysis of DYS, the Committee noted a disparity between the salaries of DYS direct-care employees and other state and county employees holding similar positions. The charts below compare existing salary ranges of staff in the Department of Youth Services to those of employees in the Department of Corrections and the Parole Board.

Pay Scale For Line Staff: Facilities

Facility	Pay Range
Department of Correction	13,520 - 16,380
County House of Correction	13,000 - 16,000
Department of Youth Services	11,000 - 13,600

Pay Scale For Line Staff: Regions

Region	Pay Range
Parole Officer	15,079 - 18,389
Probation Officer	15,500 - 20,750
Caseworkers (DYS)	12,800 - 15,400

The charts clearly indicate that the employees of the Department of Youth Services have the lowest pay scale. The Committee's opinion was that this pay differential may impair the ability of DYS to provide continuous and effective services. Specifically, the Department may lose a great many talented and dedicated employees to other agencies who offer greater

remuneration. Moreover, this attrition of direct-care employees disrupts the most needed consistent, long-term management supervision of DYS clients. Of further consideration was the multi-faceted roles and responsibilities of DYS employees. The range of skills and experience required in establishing relationships of trust, (oftentimes with difficult and aggressive youth without losing control), is particularly demanding. To accomplish this, DYS must be able to compete with similar agencies and attract qualified staff who possess the requisite attributes.

Because of the above reasons, the Committee recommends that immediate actions be taken to upgrade the salaries of DYS line staff in secure facilities comparable to salaries paid to employees in the Department of Corrections. In turn, the salaries of direct-care staff in regional offices of DYS should be made consistent with those of a probation officer. Along with a proposed salary increase in staff salaries, DYS should continue to undertake a commensurate effort to enhance present training capabilities.

RECOMMENDATION

Upgrade DYS Staff Salaries and Training

A plan should be devised to upgrade the salaries of the Department's direct care staff to bring them in line with employees performing comparable duties in other areas of state service. Moreover, programs should be established to improve the skills and enhance the professionalism of the Department's present staff.

XII. SCIENTIFIC STUDY

Introduction

Because of the nature and potential impact of the recommendations the Committee recommends that an on-going study be implemented to assess the degree to which the juvenile justice system has been affected as a result of these proposed changes. The implementation of such a study would provide direction and flexibility to the Committee's recommendation. The potential value of such a study is the ability to compare and contrast a system prior to and after certain changes are implemented. In this way, the real impact of the proposed changes may be assessed and, in turn, evaluated. In short, recommending change in itself is not enough. A follow-up effort to determine the impact, if any, must ensue.

Further, the Committee recognizes the need to conduct an additional study to determine the feasibility of a state-wide juvenile court system. The Committee, working under severe time constraints, was unable to conduct the in-depth analysis required for such a study.

Recommendation

Scientific Study

An on-going study should be conducted over a period of four years to measure the effects of new laws enacted to make recommendations to the Governor and to the Legislature for improvements. A separate study should be conducted to determine the feasibility need for a state-wide juvenile court system.

APPENDIX

BIBLIOGRAPHY

JUVENILE DELINQUENCY

- "Arkansas Juvenile Code of 1975," Proposed Rules of Procedure for Juvenile Court, 30 Ark. Law Review, 95.
- Bentovim, Arnon, "Disobedience and Violent Behavior in Children: Family Pathology and Family Treatment - I." British Medical Journal, 17 April 1976, 1:97-99.
- Bentovim, Arnon, "Disobedience and Violent Behavior in Children: Family Pathology and Family Treatment - II." British Medical Journal, 24 April 1976, 1:1004-1006.
- Brown-Roy, Marjorie, Director of Research, Office of Commissioner of Probation, "Juvenile Defendants in Massachusetts: Crimes Against Persons," January, 1981.
- "Juvenile Bindovers in Massachusetts: 1979," December 15, 1980.
- "Juvenile Defendants in Massachusetts: Patterns of Delinquency Charges (1978-1980)," November 18, 1980.
- "Patterns of Crime and Delinquency in Massachusetts: 1978-1979", February 3, 1980.
- "California Welfare and Institutions Code," Sec. 707b (West Cum. Supp. 1979).
- Cantwell, D., "Hyperkinetic Syndrome." Child Psychiatry, Modern Approaches, Rutter, M. & Herson, K. (eds). Blackwell Scientific Pub., London, 1976, Chapter 22, pp. 524-555.
- "Colorado Children's Code:", R & RE, L. 67 p. 993 Sec. 1:C.R.S., 1963 Sec. 22-1-1, 1967.
- "Dalton, Katharina, "Cyclical Criminal Acts in Premenstrual Syndrome." The Lancet, November 15, 1980, pp. 1070-1071.
- Dalton, Katharina, "Menstruation and Crime." Reprinted from the British Medical Journal, December 3, 1960. vol. II, pp. 1647-1649.
- Danesh, Hossain B., M.D. "The Authoritarian Family and Its Adolescents." Canadian Psychiatric Association Journal, November, 1978, vol. 23, no. 7, pp. 479-484.
- "Florida Proceedings Relating to Juveniles," Amended by Laws of 1978, C. 78-144, Sec. 1, Eff. October 1, 1978.
- Harshbarger, Scott, (et. al.), "Harshbarger Report," Spring 1977.

- Hovey, J.E., and Rickler, K.C., "Characteristics of Aggressive Patients in a Neurobehavioral Outpatient Clinic," Aggressive Behavior, August, 1980.
- Hovey, J.E., Norris, R.V., and Murphy, M.D., "Neurobehavioral Profiles - Implementation of Neurological, Neuropsychological, and Psychiatric Aids for Lawyers, Judges, and Probation Officers." Presentation to Massachusetts Academy of Trial Lawyers, January 24, 1981, Cambridge, MA.
- Hovey, J.E., "Violence: Is It a Public Health Problem?" American Journal of Public Health, March, 1981, vol. 71, no. 3.
- Dreuz, Leo E., and Rose, Robert M., "Assessment of Aggressive Behaviour and Plasma Testosterone in a Young Criminal Population." Psychosomatic Medicine, vol. 34, no. 4 (July - August, 1972), pp. 321-332.
- Krynicky, Victor E., "Cerebral Dysfunction in Repetitively Assaultive Adolescents." The Journal of Nervous and Mental Disease, 1978, vol. 166, no. 1, pp. 59-67.
- Lewis, D.O., "Delinquency, Psychomotor Epileptic Symptoms, and Paranoid Ideation: A Triad." Am. J. Psychiatry pp. 133:12, December, 1976, 1395-1398.
- Lewis, D.O., and Balla, D.A., "Delinquency and Psychopathology." New York: Grune & Stratton, (1976).
- Lewis, D.O., "Diagnostic Evaluation of the Juvenile Offender." Child Psychiat. Hum. Developm. 6:198-213 (1976b).
- Lewis D.O., and Shanok, Shelley S., "Medical Histories of Delinquent and Nondelinquent Children: An Epidemiological Study." Am. J. Psychiatry, 134:9, September, 1977, pp. 1020-1025.
- Lewis D.O., Balla, D.A., Sacks H.C., et. al., "Psychotic Symptomatology in a Juvenile Court Population." J. Am. Acad. Child. Psychiatry, 12:660-674, 1973.
- Lewis D.O., Shanok, S.S., and Balla, D.A., "Pre-natal Difficulties, Head and Face Trauma, and Child Abuse in the Medical Histories of Seriously Delinquent Children." Am. J. Psychiatry, 136:4A, April, 1979.
- Lewis D.O., Shanok, S.S., Pincus, J.H. and Claser, G.H., "Violent Juvenile Delinquents - Psychiatric, Neurological, Psychological, and Abuse Factors." Reprint from American Academy of Child Psychiatry, pp.307-319.
- Mark, V.H. and Ervin, F.R., "Violence and the Brain." New York: Harper & Row, (1970).
- "Massachusetts Advocacy Center Fact Sheet."

"New York Family Court Act," G.L. Sec. 515a and Sec 516, submitted to the Governor and the Legislative Leaders by January 1, 1977, (L. 1976, c.878, Sec. 31).

"North Carolina Unified Juvenile Code", House Bill 474, (Chapter 815, Sec. 1 G.S. 7A-277 through G.S. 7A-289 and G.S. 7A-289. 7, article 4).

"Ohio Juvenile Code (Including Supplement)," Law Review, Domestic Relations Court of Cincinnati, (Editorial note) 3 Clin. L. Rev. 458.

Ounsted, Christopher, "Aggression and Epilepsy Rage in Children With Temporal Lobe Epilepsy." Journal of Psychosomatic Research, v. 13, 1969 pp. 237-242.

Fincus, J.H.J., "Can Violence be a Manifestation of Epilepsy?" Neurology, 30:304-307, 1980.

Reports of the National Juvenile Justice Assessment Centers Publications: Juveniles in Detention Centers and Jails: An Analysis of State Variations During the mid 1970's, August, 1980.

A National Assessment of Serious Juvenile Crime and Juvenile Justice System:

Volume I, Summary - The Need for a Rational Response, April, 1980.

Volume II, Definition, Characteristics of Incidents and Individuals, and the Relationship to Substance Abuse, April, 1980.

Volume III, Legislation, Jurisdiction, Program Interventions, and Confidentiality of Juvenile Records, April, 1980.

Volume IV, Economic Impact, April, 1980.

Rosner, Richard, Wiederlight, Melvin, et. al., "Adolescents Accused of Murder and Manslaughter: A Five-Year Descriptive Study." The Bulletin of the American Academy of Psychiatry and the Law, VII:4, 1979, pp. 342-351.

Sadoff, Robert L., "Violence and Responsibility." New York: Halsted Press Division of John Wiley & Sons, Inc., 1978.

Schneider, Anne L., Ph.D., et al. "Legislative History, Philosophy and Rationale of the Washington (State) Juvenile Justice Code:, A Research Report from the Institute of Policy Analysis and Urban Policy Research for the National Institute of Juvenile Justice," not dated.

Sendi, I.B. and Blomgren, P.G., "A Comparative Study of Predictive Criteria in the Predisposition of Homicidal Adolescents." AM. J. Psychiatry 132:4, April, 1975.

Smith, Sydney, "The Adolescent Murderer." Arch. Gen. Psychiat., vol. 13, October, 1965, pp. 310-319.

Stewart, M.A. and Leone, L., "A Family Study of Unsocialized Aggressive Boys," Biological Psychiatry, vol. 13m no. 1, 1978.

Tooley, Kay, "Antisocial Behavior and Social Alienation Post Divorce: The 'Man of the House' and His Mother." Amer. J. Orthopsychiat. 46(1), January, 1976, pp. 33-42.

"Washington Juvenile Courts and Juvenile Delinquents," Laws 1st Ex. Sess. 1977, C. 291, Sec. 1, effective July 1, 1978.

"Washington Juveniles - Offenses, Custody, Etc., G.L. c. 155, Substitute Senate Bill No. 2768.

Washington Juvenile Justice Code, Legislative History, Philosophy and Rationale

"Washington Sentencing Standards and Instructions," From a memo by Warren L. Netherland, Director Division of Juvenile Rehabilitation, December 31, 1979.

Zaremba, B.A. et. al., "Learning Disabilities and Juvenile Delinquency." A Handbook for Court Personnel, Judges and Attorneys, November, 1979.

DYS PROJECTION OF PLACEMENT NEEDS

Results

PROJECTION 1:

This projection is based on maximum terms and placement of all youth in all classifications into secure treatment.

YEAR	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
1960	040	060	080	101	112	127	143	156	172	183	195	207
1961	215	226	241	247	247	246	243	236	242	241	237	242
1962	240	240	240	232	232	249	245	240	244	243	237	242

PROJECTION 2:

This projection is based on maximum terms and placement of all youth in mandatory classifications into secure treatment.

YEAR	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
1960	040	055	067	081	082	095	101	109	120	129	140	152
1961	159	175	190	196	197	191	189	185	190	187	184	187
1962	194	189	195	199	200	194	191	184	197	189	184	187

PROJECTION 3:

This projection is based on minimum terms and placement of all youth in all classifications into secure treatment.

YEAR	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
1960	040	060	080	101	112	122	130	135	144	150	164	166
1961	165	164	166	165	167	170	164	165	166	166	166	167
1962	165	164	166	165	167	170	164	164	166	158	166	167

PROJECTION 4:

This projection is based on minimum terms and placement of all youth in mandatory classifications into secure treatment.

YEAR	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
1960	041	055	067	081	093	093	101	108	116	125	138	138
1961	137	136	131	144	143	141	135	135	133	133	140	137
1962	137	133	141	144	145	141	135	130	133	133	140	139

All projections are for males only and assume a one month time lag between commitment and entry into a facility.

APPENDIX

NORFOLK DIVERSION PROGRAM

The Norfolk County Juvenile Diversion Unit has provided an alternative for police departments in the handling of juvenile first offenders for the last four years. By not sending them through the courts, young people accepted into the program are redirected - away from a cycle they could be caught in for the rest of their lives.

To be accepted into the program, juveniles must be recommended by a local police department and the District Attorney must waive prosecution. Most importantly, the juvenile must admit responsibility for his or her offense. Those arrested for violent crimes, sale of drugs, certain other crimes or those who show a repeated pattern of anti-social behavior are not eligible. Under special circumstances second offenders will be accepted. Upon acceptance, the caseworker assigned to the case determines if the juvenile has any problems at home or at school. If long-term counseling is needed, the caseworker contacts appropriate area agencies. In addition, the juvenile makes restitution for any theft or damage.

All caseworkers in the Juvenile Diversion Unit are trained in short-term counseling. By coordinating the efforts of the schools, police, courts, and mental health agencies, services to juveniles are more cohesive. More effective too.

Since 1976, less than three percent of the juveniles who participated in the program were unsuccessful. Their cases were sent back to the local police for prosecution. A clean police record rewarded the over 2,000 youths who completed the program without trouble. In addition, the courts

benefited by a reduction of the case load, over crowding in detention centers was reduced and government and private citizens were compensated for loss or destruction of property.

Goals

The goals of this Diversion Program which serves early offenders committing non-violent crimes are:

1. To develop a system of personalized justice in those cases which can be handled more effectively through means other than traditional court processes.
2. To create a rehabilitative rather than punitive system.
3. To avoid the delinquent label and stigma attached to youthful offenders.
4. To reduce recidivism, and
5. To insure restitution through client's responsibility.

Eligibility

All juvenile offenders involved in non-violent crimes who do not show a continuous, systematized pattern of anti-social behavior.

Types of Matters Handled - Juveniles

Juveniles are referred into the Juvenile Diversion Program by the on-duty police officer before any formal arrest is made or are referred by the police prosecutor after arrest but before a complaint is issued. All juvenile complaints are prepared by the District Attorney's Office which gives the District Attorney a direct say in which referrals are made to the Juvenile Diversion Officer.

Schedule of Events

1. No complaint is issued. The District Attorney merely sets up a file and refers the juvenile to the Juvenile Diversion Officer.
2. The Juvenile Diversion Officer checks with the police prosecutor and determines if the juvenile qualifies for the program.
3. The District Attorney okays diversion on the recommendation of the Juvenile Diversion Officer.
4. The Juvenile Diversion Officer arranges an appointment with the juvenile and his parents.
5. Develop appropriate short-term living plan relating to the offense.

STATE-WIDE JUVENILE COURT STATISTICS

[illegible]

STATE-WIDE JUVENILE COURT STATISTICS

[illegible]

STATE-WIDE JUVENILE COURT STATISTICS

[illegible]

